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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,010	02/19/2004	Christopher M. Frazeur	CN1.002	4305

7590

03/30/2006

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EXAMINER

DOOLEY, JAMES C

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/782,010	FRAZEUR, CHRISTOPHER M.	
	Examiner	Art Unit	
	James C. Dooley	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006, and 16 March 2006
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- /1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This non-final Office Action is mailed in response to amendment filed March 16, 2006, wherein claims 1, and 6 were amended, claims 2-5 and 8 were canceled and claims 7, and 9-10 were presented as original.

Claim Objections

In claim 10 line 2 before "further being supported by" the phrase --wherein the supporting structure--, or a similar phrase, should be inserted in order to clarify the structural relationship of the wheels.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Paskey et al. (US 6,240,856). Paskey et al. disclose a retaining device comprising a support structure (40) supporting a class three type hitch receiver (48). Paskey discloses the vertical bar (32) to be a 2 inch square hollow steel tube (col. 4 lines 57-59), and that the bar (32) is received in the receiver (48) (col. 4 lines 38-42). Therefore the receiver (48) must have a 2 inch square opening, which is known to be the size of a class three type hitch. Paskey et al. disclose the weight of the supporting structure (40)

indirectly by disclosing the material and the volume of the supporting structure. As calculated from column 4 lines 21-28, member 44 has a volume of .0009m³ and member 42 has a volume of .0014m³. Although Paskey et al. have not disclosed the specific alloy of steel, the density of all types of steel is shown to range from 7750-8100 kg/m³ (from the engineering fundamentals website cited on the PTO-892). Using the maximum density of 8100 kg/m³, each member has a maximum weight of 7.29 kg for member 44 and 11.34 kg for member 42 for a combined maximum weight of 18.63 kg.

With respect to claim 10, Paskey et al. disclose the device to be supported by a set of wheels (46) to provide mobility (col. 4 lines 28-30).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parrish (US 2002/0017770) alone. Parrish discloses a method of supporting a rack having a tongue adapted to be inserted into a receptacle (par. 35 ln. 7-14). The method of Parrish involves providing a trailer hitch receiver assembly mounted to a static structure for receiving trailer hitch assemblies. The trailer hitch receiver (22) disclosed by Parrish is seen to be Class III receiver by the given dimension of a 2" standard hitch (par. 4 ln.6), which is known to be the standard dimensions of a class III

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hitch. The receiver assembly is comprised of a plate (20) having apertures for fasteners (bolt holes 86a-f) where bolts holes 86a and 86b are aligned to be received in vertical stud. The static support structure disclosed by Parrish can be a garage wall (par. 35 ln. 16). Parrish specifically discloses the method of removing a rack from a vehicle trailer hitch and inserting the tongue of a rack into the trailer hitch receiver assembly mounted to static support (par. 35 ln. 7-14). Using the trailer hitch receiver of Parrish for storing a bicycle rack is also disclosed (par. 4. ln. 4). Parrish does not disclose the step of aligning the fastener holes on the plate with a vertical stud. The plate of Parrish is a symmetrical square; accordingly, it has not limitations regarding top, bottom or left and right. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to align holes 86a and 86b with a vertical stud in the wall so as to increase the strength of the hitch.

The step of inserting the tongue of the bicycle rack into the hitch is understood to be inherent within the disclosure of Parrish. Parrish discloses hitch mounted bicycle racks (Par. 4). Accordingly it is understood that hitch mounted bike racks are used by inserting the tongue of the rack into the hitch.

With respect to claim 6, Parrish does not disclose that a bicycle must be removed from the rack before mounting the rack. Parrish also discloses "While the trailer hitch apparatuses are inserted into the present invention, these apparatuses can store the same equipment that the apparatus normally carries" (Par. 8 lines 9-12). Accordingly, it would have been obvious to one with ordinary skill in the art at the time of

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the invention to move the rack and bicycle together so as to save the extra steps of removing and installing the bicycle.

With respect to claim 7, the step of inserting the tongue of the bicycle rack into the vehicle hitch, removing the bicycle rack, and inserting the tongue into the wall mounted hitch is understood to be inherent in the disclosure of Parrish. Parrish discloses vehicle mounted bicycle racks are well known in the art, and the apparatus of Parrish is for storing vehicle mounted bicycle racks on a wall mounted hitch.

Response to Arguments

Applicant's arguments with respect to claims 1, 6-7, and 9-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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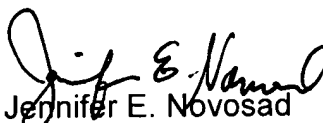
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James C. Dooley/jcd
03/09/2006



Jennifer E. Novosad
Primary Examiner
Art Unit 3634